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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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COMMUNICATIONS COMMISSION

the critical dispatch of emergency and security personnel to signalling remote units, Bay Alarm operates Stations WNHQ278, KLX661, WNW822, and WNW1652 in the 460-465 MHz band.³ Security Alarm provides police, fire, and emergency dispatch services in the Ventura-Santa Barbara regions through Stations WNQ1888 and WRK571.⁴ For the reasons provided below, the Joint Commenters seek to grandfather the existing uses of, and future expansion of, these wide area emergency dispatch systems.

**The Proposed Rules Will Modify Existing
Licenses in Violation of the Communications Act**

3) Insofar as the subject rule making proposal seeks to modify the Joint Commenters' licenses without prior written notice, the Commission's rule making fails to comply with the requirements of the Communications Act. The Commission's rule making does not provide the notice required by the Communications Act.

4) Moreover, the extensive nature of the subject rule making, and the extensive comments received by the Commission to date, absolutely indicate that substantial and material questions of fact exist as to whether the Joint Commenters' licenses should be modified. Consequently, pursuant to §309(e) of the Communications Act, 47 U.S.C. §309(e), the Commission must designate a hearing to determine whether the Joint Commenters' licenses require modification. To the extent that the Commission is attempting to modify the Joint Commenters' licenses in a general rule making proceeding rather than through a hearing, the Commission's efforts are deficient under the Communications Act.⁵

**The Proposed Rules Will Not Create
More Efficient Spectrum Use by Existing Licensees**

5) The Joint Commenters fail to see how the Commission's proposal to require existing licensees to reduce power and antenna heights creates a more efficient use of spectrum. The Joint Commenters have obtained authorizations for control and repeater facilities which adequately meets their emergency signalling service needs.

⁵ The Joint Commenters have no objection with the Commission's rule making approach as it is applied to future licensees or to non-licensed applicants with pending applications; that is how rule makings are intended to be used.

6) Reductions in power and antenna heights⁶ will cause a reduced level of reliability in the Joint Commenters' current service areas. As noted above, the Joint Commenters operate services which are critical to life, safety, and property; a missed or defective transmission could have disastrous consequences. The Commission's proposed rules would compromise the public's interest insofar as they would make the Joint Commenters' services less reliable.⁷

7) In order to maintain existing service levels under the Commission's proposed rules the Joint Commenters would have to license additional control/repeater stations. A lesser service area is claimed by one transmitter operating at 500 watts than is claimed by two transmitters operating at 300 watts. Thus, if the Joint Commenters are required to construct additional control/-repeater stations, the end result will be less, not more, spectrum efficiency.

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Bay Alarm's control and mobile relay stations operate at 500 watts at locations which are higher than 197' above average terrain. Thus, it appears that Bay Alarm would

8) Moreover, not only are the Commission's proposed rules spectrally inefficient, requiring the Joint Commenters to reduce their power while adding additional control and repeater locations merely increases their costs of doing business, costs which must be borne by the subscribers. It is apparent that not only would the Commission's proposed rules impose additional and unnecessary costs upon the Joint Commenters and their customers, the Commission's proposed rules will not achieve their intended goal of spectrum efficiency.⁸

**Channel Exclusivity, not "Channel Stacking," Is Appropriate
For Licensed Alarm Service Providers;**

9) The Joint Commenters support the concept of channel exclusivity for providers of alarm services without requiring the concurrence of other system users.⁹ The Joint Commenters' communications, involving as they do matters of public safety, should not be interrupted or delayed by other users. To the extent the Commission proposes "channel stacking" the Commission appears ready

⁸ It is noted that the Commission has recently amended Part 22 of its rules to permit licensees in that service to operate with an ERP of up to 1500 watts. Formerly, Part 22 licensees were restricted to 500 watts ERP. In the proceeding to change Part 22 the Commission determined that a higher power was more efficient and cost effective.

⁹ The Joint Commenters should be granted exclusivity for the channels upon which they currently operate. The Joint Commenters are not aware of any other users on those channels in their service areas. However, any other current licensee should receive co-exclusivity status. The Commission's "exclusive use overlay" proposal, insofar as it requires the consent of competitor systems, appears simplistic by ignoring the inherent nature of companies to act in their own self-interest without regard to competitors' business requirements.

to compromise not only the Joint Commenters' alarm critical communications networks, but also the vital communications networks of other emergency/alarm service providers.

10) Moreover, it appears that the Commission will "stack" non-safety related users onto the Joint Commenters' frequencies. The Commission's proposal to "stack" users onto the Joint Commenters' critical dispatch communications system while other channels go unused amounts to an abdication of the Commission's statutory mandate to promote public safety related communications services. 47 U.S.C. §151.

**The Proposed Rules Will Cause Existing Licensees
Severe Economic Hardship While Harming the Public Welfare**

11) The Joint Commenters' estimate that they have a combined current investment of approximately \$450,000 in dispatch and mobile equipment which utilizes the currently authorized 25 kHz wide Part 90 channels. They further estimate that they have a combined current investment of approximately \$1.3 million in their central station/remote unit alarm systems and they expect to invest an additional \$600,000 by 1996. Thus, the Joint Commenters' investment in their wide area dispatch system and in their associated alarm systems is significant. The Commission's proposal to reduce the reliability of the Joint Commenters' dispatch systems not only jeopardizes that investment but also endangers the public welfare.

12) The Commission's proposal to reduce the spectrum bandwidth of the transmitters will require the Joint Commenters to purchase new 460 MHz transmission equipment for their eleven locations at an estimated cost of \$550,000. Moreover, because the

Joint Commenters' service is critical to the protection of life, safety, and property, the Joint Commenters must assume that they will be required to purchase new mobile units; the Joint Commenters' current mobile units are not tuned precisely enough to differentiate between signals which are 6.25 kHz apart.¹⁰

13) The Commission's proposed rules seeks to implement the change to 6.25 kHz spacing over a period of about 10 years.¹¹ However, the Commission's proposal merely postpones the inevitable for an existing licensee. An existing licensee, in order to maintain the integrity of its system, cannot change its system in a piece-meal fashion over time. Such a system change over would have to be completed at once and in conjunction with neighboring systems' change overs and in conjunction with new users to the proposed 6.25 kHz wide spectrum.

14) Finally, the Joint Commenters object to the Commission's stated purpose of protecting "the national economy" where the Commission hopes to stimulate the economy by requiring the Joint Commenters to purchase unnecessary equipment and modifications. Notice of Proposed Rule Making, FCC 92-469, para. 2, released November 6, 1992. While the Commission's regulatory goal is to promote the use of communications services, the Commission

¹⁰ It is noted that the Joint Commenters' dispatch service is a voice communications service. Narrower frequency bandwidths will cause a severe deterioration in the voice quality of messages sent by radio resulting in greater levels of missed communications to the detriment of the public interest.

¹¹ Because Bay Alarm operates in the San Francisco-Oakland, CA area, a top 15 market area, its change over must be completed by January 1, 2004.

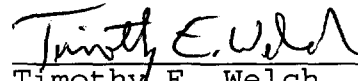
statutory purpose is not to protect the national economy and the Commission cannot require licensees to expend monies merely to promote a robust economy.

15) To the extent the Commission seeks to stimulate the national economy through the expenditure of millions, and perhaps billions, of industry dollars through the purchase of new transmitting/receiving equipment, the Commission is attempting to achieve a goal it has not been authorized by statute to address. The Commission's proposed rules will work a severe economic hardship upon the Joint Commenters and their customers and the Commission's proposed rules, as applied to alarm companies, will endanger the public safety.

WHEREFORE, in view of the information presented herein, it is respectfully submitted that the Commission refrain from issuing rules which would alter the Joint Commenters' current licenses. Moreover, the Commission should grant the Joint Commenters channel exclusivity and not apply the channel stacking concept to those frequencies.

Dean George Hill & Welch
Suite #113
1330 New Hampshire Ave., N.W.
Washington, D.C. 20036
(202) 775-0070
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Respectfully submitted,
BAY ALARM COMPANY
SECURITY ALARM SERVICES



Timothy E. Welch

Its Attorney